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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,290	05/19/2004	James Thiel	7407	5606
7590	10/17/2005		EXAMINER	
Paul M. Denk Ste. 170 763 S. New Ballas Road St. Louis, MO 63141			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
				3652

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/849,290	THIEL ET AL.
	Examiner Gregory W. Adams	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 July 2005.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.  
 4a) Of the above claim(s) 1,2 and 5 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 3,4,6 and 7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 July 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### *Claim Objections*

Claim 7 is objected to because of the following informalities: line 20 should be rewritten from "whereby a vehicle placed upon said boom" to recite --whereby a motorcycle placed upon said boom--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to lines 18, 20 & 22, the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4 & 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 2,593,635) (previously cited) in view of Keller (US 3,021,104).

With respect to claim 3, Walker discloses a boom 42 having a telescoping extension 34D.

With respect to claim 6, Walker discloses a method for storing vehicles vertically comprising reinforcing a column base, installing a carriage upon a screw lift, placing a boom upon each carriage, telescoping an extension of a boom, placing a vehicle upon a boom, and raising and laterally pivoting a boom. Walker discloses raising vehicles but does not disclose motorcycles. Walker teaches lifting motor vehicles which includes motorcycles. As applicant has disclosed no structure in which to distinguish motorcycle lifting over other vehicle type lifting, i.e. automobile, ATV, delivery van...etc., Walker's teaching of lifting a motor vehicle includes motorcycles for inspection and maintenance to a motor vehicles underside. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Walker to lift motorcycle-type motor vehicles, to lift and provide access underneath for such things as repair and maintenance.

With respect to claims 4 & 7, Walker discloses a device for lifting motorcycles comprising a threaded sleeve 25A threadedly mounted upon a column screw drive 30A, pivot provided upon a threaded sleeve 25A forwardly of a column 10A, one or more carriages 46A, 47A, 44A pivotally mounting to a threaded sleeve 25A, one or more booms 42A-A', each mounted to a carriage (FIG. 4) 46A, 47A, 44A wherein each carriage has an upper flange 47A, and upper flange round, complete hole, and a lower flange 48A and lower flange circular hole coaxial with upper flange hole wherein upper flange is applied upon a pivot.

Walker does not disclose a lower flange semi circular hole. Keller discloses an upper flange 22 having a complete hole 23 and a lower flange 24 having a semi circular hole coaxial with upper flange complete hole 23 wherein upper flange is applied upon a pivot 18, 19 and a lower flange rests against a pivot 18, 19. Keller teaches a pivot which supports a boom 20 such

that the pivot can be adapted to be expeditiously mounted or removed. Col. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lower hole of Walker to include a semi-circular hole, as per the teachings of Keller, such that a pivot can be quickly disassembled and reassembled in new spot.

Further, Walker discloses raising vehicles but does not disclose raising motorcycles. Walker teaches lifting motor vehicles wherein motor cycles would be included such that the underneath can be inspected or maintained. It is noted that applicant has disclosed no structure in which to distinguish motorcycle lifting over other vehicle type lifting, i.e. automobile, ATV, delivery van...etc., Walker's teaching of lifting a motor vehicle includes motorcycles for inspection and maintenance to a motor vehicles underside. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Walker to lift motorcycle-type motor vehicles, to lift and provide access underneath for such things as repair and maintenance.

Walker discloses the claimed invention except for handles. Walker does not disclose mechanical pivoting means, e.g. motor driven motor, to rotate a carriage. Walker teaches swinging booms out of the way such that the booms can be either employed to lift or removed from service, or can be correctly positioned for proper lifting force applied to a vehicle. Element 42 will suffice as a handle in which adequate manual force could be applied such that a boom is positioned.

#### *Response to Arguments*

Applicant's arguments with respect to claims 3-4 & 6 have been considered but are moot in view of the new ground(s) of rejection. Applicant has cancelled claims 1-2 & 5, and new

claim 7 has been treated on the merits above. Applicant's amendment to now claim a semi-circular hole which rests against a pivot contrasted with resting against a screw drive as originally claimed necessitated a new search and the above rejection on the merits.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a structure for storing 2 or more motorcycles) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Further, in response to applicant's argument that Walker does not disclose a storing apparatus, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



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